

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

PATRICIA DAFFIN,

Plaintiff,

v.

FORD MOTOR COMPANY,

Defendant.

Case No. C-1-00-458

District Judge Susan J. Dlott

**PARTIES' JOINT MOTION FOR
DISMISSAL OF ACTION WITH PREJUDICE**

Pursuant to Fed. R. Civ. P. 23(e)(2), Plaintiff Patricia Daffin and Defendant Ford Motor Company, by undersigned counsel, hereby inform the Court that they have reached an agreement, attached as Exhibit A, to settle this litigation in its entirety, and ask the Court to approve the dismissal of this action. The terms of this agreement have been negotiated at arms length and are the result of vigorously contested litigation that has spanned more than seven years.

Under the settlement, Ford will send a mailing to the approximately 3,000 class members that (a) gives them the opportunity to request a voucher good for one free cleaning of the throttle body mechanism in their 1999 or 2000 Mercury Villager, and (b) the opportunity to claim a refund for any paid cleaning, repair, or replacement of their throttle body mechanism while their vehicle was still under warranty. Ford also will pay named plaintiff Daffin \$6,000, and pay Class Counsel \$490,000 in fees and costs. Plaintiff Daffin will also receive a voucher good for one free cleaning of the throttle body mechanism.

In exchange for Ford providing to named plaintiff Daffin and the Class Members these benefits, Daffin will release and dismiss with prejudice her individual claims, and dismiss without prejudice the claims of the absent members of the Class.

Because this case has been certified as a class action, it can only be dismissed with the Court's permission. Fed. R. Civ. P. 23(e)(1)(A). No formal notice of the dismissal to class members is required, however, because absent class members will not be "bound" by the settlement "through claim or issue preclusion" because their claims will not be released. Fed. R. Civ. P. 23(e)(1)(B) and 2003 Amendments Advisory Committee notes thereto). Nevertheless, under the settlement, Ford will send a mailing to the approximately 3,000 class members informing them of the dismissal of the case and of the benefits they are receiving.

Consequently, Plaintiff and Defendant jointly move this Court to dismiss this action. A Proposed Order has been provided to the Court pursuant to the ECF filing requirements.

Respectfully Submitted,

Dated: September 19, 2007

/s/John C. Murdock

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